

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

**JOHNNY DEANDA, #365000,**

Petitioner,

v.

**RICK THALER, Director,  
Texas Department of Criminal Justice,  
Correctional Institutions Division,**

Respondent.

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Civil Action No. **3:10-CV-890-L**

**ORDER**

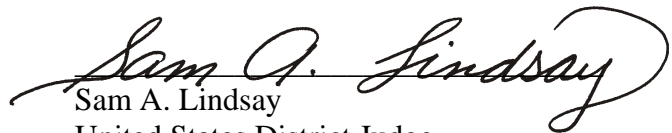
Before the court is Petitioner Johnny Deanda's Petition for Writ of Habeas Corpus, filed May 3, 2010. United States Magistrate Judge Paul D. Stickney entered filed Findings, Conclusions and Recommendation of the United States Magistrate Judge ("Report") on June 28, 2010. Petitioner filed no objections to the Report.

This is a habeas petition purportedly filed pursuant to 28 U.S.C. § 2241. The magistrate judge determined that Petitioner's requested relief, however, was only proper under 28 U.S.C. § 2254 and directed Petitioner to file the appropriate habeas application in a deficiency order dated May 11, 2010. On May 20, 2010, Petitioner filed a motion seeking disqualification of the magistrate judge, which this court denied on May 24, 2010. In the court's order, the court cautioned Petitioner that failure to comply with orders of the magistrate judge would result in this case being dismissed under Rule 41(b) of the Federal Rules of Civil Procedure for failure to comply with a court order. Petitioner filed a notice of interlocutory appeal with the Fifth Circuit on June 3, 2010. As of the date of this order, Petitioner has failed to comply with the magistrate judge's deficiency order and has

sought no extension of time to do so. The magistrate judge therefore recommends that this action be dismissed without prejudice.

After reviewing of the petition, filings, Report, and record, the court agrees with the magistrate judge. The court accordingly determines that the magistrate judge's findings and conclusions are correct. The Report is **accepted** as that of the court. The court **dismisses without prejudice** the Petition for Writ of Habeas Corpus for failure to comply with a court order.

**It is so ordered** this 15th day of July, 2010.

  
Sam A. Lindsay  
United States District Judge